

To: Violet Blue d/b/a Tiny Nibbles (tmdocket@vogelelaw.com)
Subject: TRADEMARK APPLICATION NO. 77121570 - VIOLET BLUE - N/A
Sent: 11/1/2007 10:31:15 AM
Sent As: ECOM106@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/121570

MARK: VIOLET BLUE

77121570

CORRESPONDENT ADDRESS:

COLETTE VOGELE
VOGELE & ASSOCIATES
580 CALIFORNIA ST STE 1600
SAN FRANCISCO, CA 94104-1037

RESPOND TO THIS ACTION:

<http://www.uspto.gov/teas/eTEASpageD.htm>

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Violet Blue d/b/a Tiny Nibbles

CORRESPONDENT'S REFERENCE/DOCKET

NO:

N/A

CORRESPONDENT E-MAIL ADDRESS:

tmdocket@vogelelaw.com

OFFICE ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE: 11/1/2007

INTRODUCTION

This letter responds to the applicant's communication filed on October 12, 2007, in response to an Office action issued on June 15, 2007, in which the examining attorney required: 1) an amended description of the goods/services; 2) compliance with classification rules; and 3) a specimen for Class 9. The amended identification and classification of goods/services are acceptable in part, and still require further amendment. The Class 9 specimen is acceptable, however, raises a new issue concerning whether VIOLET BLUE names a living person. Since this issue is raised for the first time, it is not made final.

CONSENT

Applicant must clarify whether the name in the mark identifies a particular living individual.

If the name in the mark identifies a particular living individual, then applicant must submit the following:

- (1) a signed, written consent from that individual, authorizing applicant to register the name as a trademark with the USPTO; and
- (2) a statement that “**VIOLET BLUE** identifies a living individual whose consent is of record.”

However, if the name in the mark does not identify a living individual, then applicant must submit a statement that “**VIOLET BLUE** does not identify a living individual.” Trademark Act Section 2(c), 15 U.S.C. §1052(c); TMEP §§813 and 1206.

GOODS/SERVICES

The amended identification of goods/services is acceptable but for the portions outlined below, and discussed previously with counsel on or about October 24 and 29, 2007.

The applicant amended the identification of goods/services to the following. Note that the examining attorney has highlighted the wording that required further amendment:

Class 9: Downloadable electronic publications in the nature of **audio, visual, and photographic materials, dramatic performances**, journalistic and investigative reports, **modeling**, and prose presentations including **text blog posts, video blog posts**, electronic books, **and podcasts** in the field of health, robotics, machine art, sexual pleasures, pornography, technology and new media services; Downloadable audio files, MP3 recordings, online discussion boards, web casts, podcasts featuring music, audio books and news broadcasts, all in the fields of, robotics, machine art, sexual pleasures, pornography, technology and new media services pornography, technology and new media services.

Class 41: Providing on-line, publications in the nature of **audio, visual, and photographic materials, dramatic performances**, journalistic and investigative reports, **modeling**, and prose presentations including **text blog posts, video blog posts**, electronic books, audio books, **and podcasts** in the field of health, robotics, machine art, sexual pleasures, pornography, technology and new media services; On-line journals, namely, blogs featuring information and photographs in the fields of health, robotics, machine art, sexual pleasures, pornography, technology and new media services; Electronic publishing services, namely, publication of text, audio, video, graphic and interactive works of others in the form of online downloads featuring information in the fields of health, robotics, machine art, sexual pleasures, pornography, technology and new media services.

The introductory wording in each identification refers to publications. Performances, blog posts and podcasts are not publications, and these items appear to be covered by other portions of the identifications. Therefore, the applicant may

amend to the following, if accurate:

Class 9:

Downloadable electronic publications in the nature of INDIVIDUAL TEXTS OF BLOG POSTS, PHOTOGRAPHS, electronic books, audio books, news columns, and newsletters, in the fields of health, robotics, machine art, sexual pleasures, pornography, technology and new media services; Downloadable audio files, MP3 recordings, online discussion boards, web casts, and podcasts featuring music, audio books and news broadcasts, all in the fields of, robotics, machine art, sexual pleasures, pornography, technology and new media services.

Class 41:

Providing on-line, publications in the nature of INDIVIDUAL TEXTS OF BLOG POSTS, still PHOTOGRAPHIC images, electronic books, audio books, news columns, and newsletters, in the fields of health, robotics, machine art, sexual pleasures, pornography, technology and new media services; On-line journals, namely, blogs featuring information and photographs in the fields of health, robotics, machine art, sexual pleasures, pornography, technology and new media services; Electronic publishing services, namely, publication of text, audio, video, graphic and interactive works of others in the nature of text blog posts, still PHOTOGRAPHIC images, electronic books, audio books, news columns, and newsletters, featuring information in the fields of health, robotics, machine art, sexual pleasures, pornography, technology and new media services.

Please note that, while the identification of goods and/or services may be amended to clarify or limit the goods and/or services, adding to the goods and/or services or broadening the scope of the goods and/or services is not permitted. 37 C.F.R. §2.71(a); TMEP §§1402.01 and 1402.03(a). Therefore, applicant may not amend the identification to include goods and/or services that are not within the scope of the goods and/or services set forth in the present identification.

The applicant is advised that the above suggestions may not be a complete listing of acceptable specifications available to the applicant, but are instead provided only as suggestions. It is the applicant's duty to properly identify and classify the goods and services. TMEP Section 1402.01(e). For assistance regarding an acceptable listing of goods and/or services, please see the on#line searchable *Manual of Acceptable Identifications of Goods and Services*, at [http://www.uspto.gov/web/offices/tac/doc/gsmannual/](http://www.uspto.gov/web/offices/tac/doc/gsmmanual/) or <http://tess2.uspto.gov/netahtml/tidm.html>.

Please also note that the applicant may not use the indefinite wording “and/or,” “or,” or “etc.” in its identification of goods/services. The applicant must use the more definite word “and” when listing more than one item. The applicant may not use parentheticals in its description of goods/services. The examining attorney used them above merely to indicate wording that requires further amendment.

MULTI-CLASS FILING RULES

The applicant must comply with all classification rules outlined in the previous Office action.

NOTE: APPLICABLE LEGAL AUTHORITIES

The following legal authorities govern the processing of trademark and service mark applications by the Office: The Trademark Act, 15 U.S.C. §§1051 *et seq.*, the Trademark Rules of Practice, 37 C.F.R. Part 2, and the Office's *Trademark Manual of Examining Procedure* (TMEP) (4th ed., 2005).

"TMEP" refers to the Office's *Trademark Manual of Examining Procedure* (4th ed., 2005), available on the United States Patent and Trademark Office website at <http://tess2.uspto.gov/netahtml/tidm.html>. This is a detailed guidebook written by the Office to explain the laws and procedures that govern the trademark application, registration and post registration processes.

The Trademark Applications and Registrations Retrieval (TARR) database on the USPTO website at <http://tarr.uspto.gov> provides detailed, up to the minute information about the status and prosecution history of trademark applications and registrations. Please note that an application serial number or registration number is needed to be able to access this database. TARR is available 24 hours a day, 7 days a week.

/Elissa Garber Kon/

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RESPOND TO THIS ACTION: If there are any questions about the Office action, please contact the assigned examining attorney. A response to this Office action should be filed using the form available at <http://www.uspto.gov/teas/eTEASpageD.htm>. If notification of this Office action was received via e-mail, no response using this form may be filed for 72 hours after receipt of the notification. **Do not attempt to respond by e-mail as the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

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Attachments:

IMPORTANT NOTICE
USPTO OFFICE ACTION HAS ISSUED ON 11/1/2007 FOR
APPLICATION SERIAL NO. 77121570

Please follow the instructions below to continue the prosecution of your application:

VIEW OFFICE ACTION: Click on this link
http://portal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77121570&doc_type=OOA&mail_date=20071101
(or copy and paste this URL into the address field of your browser), or visit <http://portal.uspto.gov/external/portal/tow>
and enter the application serial number to access the Office action.

PLEASE NOTE: The Office action may not be immediately available but will be viewable within 24 hours of this notification.

RESPONSE MAY BE REQUIRED: You should carefully review the Office action to determine (1) if a response is required; (2) how to respond; and (3) the applicable response time period. Your response deadline will be calculated from **11/1/2007**.

Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System response form at <http://www.uspto.gov/teas/eTEASpageD.htm>.

HELP: For *technical* assistance in accessing the Office action, please e-mail TDR@uspto.gov. Please contact the assigned examining attorney with questions about the Office action.

WARNING

- 1. The USPTO will NOT send a separate e-mail with the Office action attached.**
- 2. Failure to file any required response by the applicable deadline will result in the ABANDONMENT of your application.**